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Testimony

SB 475 – Maryland Transit Administration Police - Collective Bargaining - Supervisors and Sergeants Appropriations March 29, 2022 Favorable With Amendment

The Problem with AFT-MCEA Asking Legislators to Appoint Them as the Exclusive Bargaining Representative for MTA Police Supervisors and Sergeants

What is the problem? [SB 475](#) amends Maryland Transportation Law §7-601 by requiring the Maryland Classified Employees Union Local 1835 to be an “accredited representative” and therefore be the exclusive bargaining unit representative of Supervisors and Sergeants in the Maryland Transit Administration Police.

Current law specifically designates ATU Division No. 1300; OPEIU Local 2; and AFSCME Local 1859, Council 67 as an “accredited representative” because of earlier elections prior to MTA’s evolution as a state entity.

AFT-MCEA are taking workers who are currently excluded from collective bargaining by virtue of being in Unit “S” (excluded-supervisor) and through legislation are asking legislators to designate them as the exclusive bargaining representative, *without an election to determine whether to have a representative or who it should be*. And the MTA has no election process in place.

The National Labor Relations Act of 1935 set the standard for exclusive union representation rights through the use of democratically determined elections.*

Maryland’s State Personnel & Pensions Law sets a rigorous yet fair process applicable to most State employees where exclusive bargaining representation rights are earned through democratically determined elections. To shun such a process is to shun democratic unionism.

The solution: AFSCME Council 3 recommends amending the legislation to say:

A REPRESENTATIVE OF A LABOR ORGANIZATION THAT HAS BEEN DESIGNATED ACCREDITED REPRESENTATIVE THROUGH AN ELECTION CONSISTENT WITH THE PROCESS SET OUT IN SUBTITLE 4, TITLE 3, OF THE STATE PERSONNEL AND PENSIONS ARTICLE TO SERVE AS THE EXCLUSIVE REPRESENTATIVE FOR THE EMPLOYEES DESCRIBED IN SUBSECTION (B)(2)(II) OF THIS SECTION.

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Undermining the very essence of democratic unionism through the appointment of an exclusive bargaining unit representative plays directly into the narrative of the Right to Work Committee's "forced unionism" argument.

It also sets a dangerous legal precedent where the democratic voting rights of workers are shunted aside. As written, the bill eliminates the workers' voice in choosing whether to be represented and by whom.

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- *The DC Court of Appeals*: "One of the principal protections of the NLRA is the right of employees to **bargain collectively through representatives of their own choosing or to refrain from such activity.**" *Skyline Distributors, a Div. of Acme Markets, Inc. v. N.L.R.B.*, 99 F.3d 403, 411 (D.C. Cir. 1996).
- *The Supreme Court*: "Congress declared in Section 1 of the [National Labor Relations] Act that it was the policy of the United States to protect 'the exercise by workers of full freedom of association, self-organization, and **designation of representatives of their own choosing.**'" *N.L.R.B. v. Magnavox Co. of Tennessee*, 415 U.S. 322, 325–26 (1974)
- *The Supreme Court*: "**freedom of choice ... is the essence of collective bargaining**". *Int'l Ass'n of Machinists, Tool & Die Makers Lodge No. 35, v. Nat'l Lab. Rels. Bd.*, 311 U.S. 72, 79 (1940).